

REMARKS

Claims 1-39 are pending in this application. Applicant has amended the claims via the present Amendment to better comply with the Office's requirements, correct some grammatical and other obvious errors, and to more particularly set forth the claimed subject matter.

Double Patenting

The Office has provisionally rejected claims 1-39 under the doctrine of double patenting over the claims of co-pending applications 09/704,228 and 09/898,519. The Office argues that although the claims are not identical, they are not patentably distinct from each other for the reasons listed on pages 2-3 and 9-10.

Applicant respectfully disagrees with this rejection. The Office focuses on the fact that there exists overlapping subject matter and that the requirement of an additional structural component does not patentably distinguish the present claims from the co-pending claims. The Office, however, has not shown how the present claims would have been obvious to the skilled artisan in light of the co-pending claims.

In particular, the Office has not shown how the present claims with a shaped, non-straight, or bent structure would have been obvious in light of the co-pending claims that have no such requirement. The Office has not even alleged that such obviousness exists. Nor has the Office provided any reasoning why the skilled artisan would have modified the invention of the co-pending claims to arrive at the invention of the present claims having the claimed structures.

Thus, the Office has not substantiated a sufficient basis for this ground of rejection and Applicant respectfully requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 102(b) over Frease

The Office has rejected claims 1-2, 6-7, 11-13, 15, and 36-39 under 35 U.S.C. § 102 (b) as being anticipated by Frease (U.S. Patent No. 1,677,714), for the reasons listed on pages 4 and 10-11 of the Office Action. Applicant respectfully traverses this rejection.

The independent claims currently recite a structural member comprising a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers. The Office argues that Frease discloses multiple layers towards the inside and towards the outside of his middle ribbed layer in Figure 3. Such an argument, even if true, does not substantiate that Frease teaches the limitations mentioned above, e.g., a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers.

Indeed, it would be difficult for the Office to show that Frease discloses such limitations. Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.*

For the above reasons, the Office has not substantiated that Frease anticipates the rejected claims. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 102(b) over Jonda

The Office has rejected claims 1-2, 6-7, 11-14, 18-20, and 36-39 under 35 U.S.C. § 102 (b) as being anticipated by Jonda (U.S. Patent No. 4,025,675), for the reasons listed on pages 4-5 and 11 of the Office Action. Applicant respectfully traverses this rejection.

The independent claims currently recite a shaped, bent, or non-straight structural member comprising an inner section containing a plurality of contoured inner layers and an outer section containing a plurality of contoured outer layers. The Office, however, has not substantiated that Jonda teaches the limitations mentioned above, e.g., a shaped, bent, or non-straight structural member. Indeed, it would be difficult for the Office to show that Jonda teaches such limitations in light of the fact that Figures 1-4 of Jonda depict only straight members.

For the above reasons, the Office has not substantiated that Jonda anticipates claims 1-2, 6-7, 11-14, 18-20, and 36-39. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 103 over Frease

The Office has rejected claims 5 and 10 under 35 U.S.C. § 103 (a) as being unpatentable over Frease for the reasons listed on pages 5-6 of the Office Action. Applicant respectfully traverses this rejection.

As noted above, the Office has not shown that Frease teaches a structural member comprising a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers. Nor has the Office argued that such a limitation is obvious in light of the teachings of Frease.

Nor is it likely that the Office can substantiate such obviousness. Frease discloses that his structural member consists of a number of sheets, plates, or strips secured to each other by rivets, welding, or other fastening means. *See column 1, lines 48-54.* Such a disclosure teaches against using a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers.

Thus, the Office has not substantiated that the skilled artisan would have considered the rejected claims obvious in light of Frease. Accordingly, Applicant requests withdrawal of this ground of rejection.

Rejection – 35 U.S.C. § 103 over Frease in view of Ohrn

The Office has rejected claims 1-24, 31-33, and 36-39 under 35 U.S.C. § 103 (a) as being unpatentable over Frease in view of Ohrn (U.S. Patent No. 6,116,290), for the reasons listed on pages 6-8 of the Office Action. Applicant respectfully traverses this rejection.

The independent claims currently recite a structural member comprising a continuous plurality of contoured inner layers and a continuous plurality of contoured outer layers. Applicant has detailed above why the Office has not substantiated that Frease teaches or suggests these limitations in these claims. Nor has the Office argued that such a limitation is taught or suggested in light of the teachings of Ohrn. And is unlikely that Office can substantiate such a suggestion in light of the figures of Ohrn which depict only a single inner and outer layer.

Since none of the cited references teach or suggest such a claim limitation, the Office can not substantiate the combination of the cited references suggests such a claim limitation. Thus, the Office has not substantiated that the skilled artisan would have considered claims 1-24, 31-

33, and 36-39 obvious in light of Frease in combination with Ohrn. Accordingly, Applicant requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 103 over Cappa

The Office has rejected claims 1-24 and 31-39 under 35 U.S.C. § 103 as being unpatentable over Cappa (U.S. Patent No. 5,848,767) for the reasons listed on pages 8-9 and 11-12 of the Office Action. Applicant respectfully traverses this rejection.

As noted above, all of the independent claims currently recite a structural member comprising an inner section with continuous plurality of contoured layers and an outer section with a continuous plurality of contoured outer layers. The inner and outer sections are formed by a roll-wrapping process that quickly wraps successive layers of material to form the inner and outer sections.

On page 11 of the Office Action, the Office recognizes that Cappa forms a structural member by using separate sheets 44 of material. But the Office does not even allege—let alone argue—that the skilled artisan would have been motivated to modify the disclosure of Cappa to obtain the claim limitation discussed immediately above.

For the above reasons, the Office has not substantiated that the skilled artisan would have considered claims 1-24 and 31-39 obvious in light of Cappa. Accordingly, Applicant requests withdrawal of this ground of rejection.

CONCLUSION

For the above reasons, Applicant respectfully requests the Office to withdraw the above grounds of rejection and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 18-0013/40010.0010.

Respectfully Submitted,

By _____


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